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U.S. DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO / OAKLAND DIVISION

BETSY BRAZY,

Plaintiff,

vs

BERKELEY UNIFIED SCHOOL DISTRICT,

Defendant.

Case No.

COMPLAINT

Complaint

Brazy v. Berkeley Unified School District,

Case No.

1 Plaintiff Betsy Brazy complains of Defendant Berkeley Unified School District as
2 follows:

3 **PARTIES**

4 1. Plaintiff Betsy Brazy is an individual who resides in the City of Alameda,
5 Alameda County, California. She is a member of the State Bar of California.

6 2. Berkeley Unified School District (BUSD) is a local education agency as that
7 phrase is defined in Section 1401(19)(A) of the Individuals with Disabilities Education
8 Improvement Act of 2004, 20 U.S.C. §§ 1400–1482, 9567 (IDEA). It is located in the
9 City of Berkeley, Alameda County, California.

10 **JURISDICTION and VENUE**

11 3. This Court has subject matter jurisdiction for actions for attorney’s fees
12 under Section 1415(i)(3)(B)(i)(I) of the IDEA.

13 4. The Northern District Court of California is the proper venue under 28
14 U.S.C. § 1391(b) because Plaintiff and Defendant are located in this district, and the
15 claims arose in this district.

16 **INTRADISTRICT ASSIGNMENT**

17 5. A substantial part of the events giving rise to this action occurred in
18 Alameda County.

19 **COUNT ONE**

20 **ATTORNEY’S FEES UNDER FEDERAL LAW**

21 6. Ms. Brazy represented Penny Bamford and Janine Cataldo (Clients), on
22 behalf of their daughter Ava Bamford, in requesting and conducting a “Due Process”
23 hearing against BUSD under Section 1415 of the IDEA.

1 7. Ms. Brazy hired Mitchell Chyette to assist her in preparing for and
2 conducting the Due Process hearing. Mr. Chyette is also a member of the State Bar of
3 California.

4 8. Clients were the prevailing parties in the Due Process hearing. A copy of
5 the decision of the California Office of Administrative Hearings hearing officer is
6 attached as Exhibit A.

7 9. Clients were entitled to recover their attorney's fees and costs from BUSD
8 under Section 1415(i)(3)(B)(i)(I) of the IDEA.

9 10. After the decision was rendered, Clients assigned to Ms. Brazy their rights
10 to recover attorney's fees. A copy of the assignment is attached as Exhibit B.

11 11. By virtue of the assignment, Ms. Brazy is now entitled to collect directly
12 from BUSD the attorney's fees and costs that would otherwise be paid to Clients.

13 12. Ms. Brazy charged Clients at the rate of \$300.00 per hour. \$300.00 per
14 hour is at or below the prevailing rate in the community in which the proceeding arose
15 for the kind and quality of services she provided.

16 13. Mr. Chyette charged \$200.00 per hour. \$200.00 per hour is at or below
17 the prevailing rate in the community in which the proceeding arose for the kind and
18 quality of services he provided.

19 14. Attached as Exhibit C is a spreadsheet describing the activities undertaken
20 and the time incurred by Ms. Brazy and Mr. Chyette representing Clients in the Due
21 Process hearing process.

15. In addition, Ms. Brazy incurred \$3,321.56 in expenses in connection with presenting Clients' case at the Due Process Hearing. Attached as Exhibit D is a spreadsheet detailing the expenses incurred.

16. In total, BUSD owes Ms. Brazy \$82,351.54 in attorney's fees and costs.

17. In addition, BUSD owes Ms. Brazy the amount of attorney's fees and costs incurred in pursuing this action.

WHEREFORE, Ms. Brazy prays for judgment as described below.

COUNT TWO

ATTORNEY'S FEES UNDER STATE LAW

18. The allegations in paragraphs 1–17 are incorporated herein by reference.

19. Clients were entitled to recover their attorney's fees and costs from BUSD under Section 56507(b)(1) of the California Education Code.

20. By virtue of Clients' assignment, Ms. Brazy is now entitled to collect the attorney's fees and costs directly from BUSD.

21. BUSD owes Ms. Brazy \$82,351.54 in attorney's fees and costs.

WHEREFORE, Plaintiff prays for judgment as follows:

A. That BUSD pay Ms. Brazy \$82,351.54,

B. That BUSD pay Ms. Brazy the costs and attorney's fees incurred in pursuing this action, and

C. For such other relief as the Court deems just.

Dated: October 24, 2019

Law Office of Mitchell Chyette

By: 
Attorney for Betsy Brazy